

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**MARK A. GUTHRIE,**

**Plaintiff,**

**vs.**

**Civil Action No. 3:07 CV 141  
(Maxwell)**

**MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**ORDER**

It will be recalled that the above-styled social security appeal was instituted on October 30, 2007, with the filing of a Complaint by Plaintiff Mark A. Guthrie.

It will further be recalled that the case was referred to United States Magistrate Judge James E. Seibert in accordance with Rule 83.12 of the Local Rules of General Practice and Procedure.

On April 7, 2009, Magistrate Judge Seibert entered a Report And Recommendation wherein he recommended that the Plaintiff's Motion For Summary Judgment be denied and that the Defendant's Motion For Summary Judgment be granted. In said Report And Recommendation, the parties were directed, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e) of the Federal Rules of Civil Procedure, to file any written objections thereto with the Clerk of Court within ten (10) days after being

served with a copy of said Report And Recommendation. Magistrate Judge Seibert's Report And Recommendation expressly provided that a failure to timely file objections would result in waiver of the right to appeal from a judgment of this Court based thereon.

The docket in the above-styled civil action reflects that no objections to Magistrate Judge Seibert's April 7, 2009, Report And Recommendation have been filed.

Upon consideration of said Report and Recommendation, and having received no written objections thereto<sup>1</sup>, the Court accepts and approves the Report And Recommendation. Therefore, it is

**ORDERED** that Magistrate Judge Seibert's Report And Recommendation (Docket No. 20) be, and is hereby, **ACCEPTED** in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly,

1. The Plaintiff's Motion For Summary Judgment (Docket No. 15) is **DENIED**;  
and
2. The Defendant's Motion For Summary Judgment (Docket No. 18) is  
**GRANTED**; and
3. The above-styled civil action is **DISMISSED** and **RETIRED** from the  
docket of this Court.

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<sup>1</sup>The failure of the parties to object to the Report And Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Pursuant to Rule 58 of the Federal Rules of Civil Procedure, the Clerk of Court is directed to enter a separate Judgment Order affirming the decision of the Defendant.

The Clerk of Court is directed to transmit copies of this Order and the Judgment Order to counsel of record.

**ENTER:** May 14, 2009

**/S/ Robert E. Maxwell**  
United States District Judge